

# **EXHIBIT 110**

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 -----x  
3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 ZWI SKORNIKI,

7 Defendant.  
8 -----x

19-CR-277 (KAM)

United States Courthouse  
Brooklyn, New York

June 25, 2019  
10:00 a.m.

9 TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE KIYO A. MATSUMOTO  
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES

12 For the Government:

UNITED STATES ATTORNEY'S OFFICE  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: ALIXANDRA E. SMITH, AUSA

-and-

15 U.S. Department of Justice  
950 Constitution Ave., NW  
16 Washington, DC 20530-0001  
BY: DEREK ETTINGER, ESQ.  
17 DENNIS KIHM, ESQ.

18 For the Defendant:

CARLTON FIELDS  
405 Lexington Avenue 36th Floor  
New York, New York 10174  
BY: MICHAEL L. YAEGER, ESQ.  
20 ADAM SCHWARTZ, ESQ.  
21 ROBERT MCCAULEY, ESQ.

22 Court Reporter:

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24 Proceedings recorded by mechanical stenography. Transcript  
25 produced by computer-aided transcription.

*GEORGETTE K. BETTS, RPR, FCRR, CCR*  
*Official Court Reporter*

1 THE COURTROOM DEPUTY: This is criminal cause for  
2 pleading. 19-CR-277 U.S.A. versus Zwi Skorniki.

3 Will the government attorney please state your  
4 appearance.

5 MS. SMITH: Good morning, Your Honor, Alixandra  
6 Smith for the United States. With me are DOJ trial attorneys  
7 Derek Ettinger and Dennis Kihm.

8 THE COURT: Good morning.

9 THE COURTROOM DEPUTY: And on behalf of  
10 Mr. Skorniki.

11 MR. YAEGER: Yes, good morning, Your Honor. Michael  
12 Yaeger for Mr. Skorniki. With me is Mr. Adam Schwartz,  
13 Mr. Bob McCauley from our firm Carlton Fields and two lawyers  
14 from Brazil.

15 THE COURT: Good morning. Which one is Mr.  
16 Skorniki. Hello.

17 THE DEFENDANT: Good morning.

18 THE COURT: Sir, do you speak and understand English  
19 without any difficulty?

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: Please raise your right hand and take an  
22 oath to tell the truth.

23 (Defendant sworn/affirmed.)

24 THE DEFENDANT: Yes.

25 THE COURT: Please have a seat everybody.

1           Mr. Skorniki, before I decide whether to accept your  
2 guilty plea -- have a seat, please -- there are a number of  
3 questions I must ask you in order to assure myself that your  
4 plea is valid.

5           THE DEFENDANT: Yes.

6           THE COURT: So if you do not understand my question,  
7 or if you need clarification, or if you wish to speak to your  
8 attorney, please let me know. All right, sir?

9           THE DEFENDANT: Yes.

10          THE COURT: Mr. Yaeger, I just want to confirm have  
11 you entered a notice of appearance on this docket?

12          MR. YAEGER: I have not.

13          THE COURT: I can't allow you to represent him. I  
14 thought it was Mr. Padula.

15          MR. YAEGER: Mr. Padula, unfortunately, was not able  
16 to be here today. I am a partner in the firm in New York and  
17 so I am filling in. I will --

18          THE COURT: I would hate to have a lawyer who is not  
19 counsel of record represent any defendant in a guilty plea.

20          MR. YAEGER: I understand, Your Honor. I will enter  
21 the appearance.

22          THE COURT: You can do that downstairs in the  
23 clerk's office.

24          MR. YAEGER: Would Your Honor like me to do that  
25 right now and we will take a five minute recess?

1 THE COURT: I think that should be fine. I just  
2 don't feel comfortable having you appear here --

3 MR. YAEGER: Understood, Your Honor.

4 THE COURT: -- without having noted your appearance  
5 on the docket.

6 MR. YAEGER: Yes, Your Honor.

7 THE COURT: All right. Thank you. We'll take five  
8 minutes.

9 (Recess.)

10 THE COURT: All taken care of?

11 MR. YAEGER: Yes, Your Honor.

12 THE COURT: We'll start over.

13 This is a guilty plea in the case of U.S. versus Zwi  
14 Skorniki, 19-CR-277.

15 Mr. Skorniki, you've been sworn to tell the truth.

16 Do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Now I will be asking you  
19 questions under oath in order to assure myself that your  
20 guilty plea is valid. If you don't understand my question, or  
21 wish to confer with Mr. Yaeger, or would like me to repeat or  
22 clarify my question, please let me know. All right, sir?

23 THE DEFENDANT: Okay.

24 THE COURT: Now do you speak and understand English  
25 without any difficulty?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: How long have you spoken English?

3 THE DEFENDANT: Since the '70s.

4 THE COURT: Since the '70s?

5 THE DEFENDANT: Yes.

6 THE COURT: Did you study English formally?

7 THE DEFENDANT: Yes, in the university, in the high  
8 school, yes.

9 THE COURT: All right. Thank you. You may sit down  
10 if you wish, sir.

11 THE DEFENDANT: Okay.

12 THE COURT: Do you understand that having been sworn  
13 to tell the truth, your answers to my questions will be  
14 subject to penalties of perjury or making false statements if  
15 you do not answer truthfully?

16 THE DEFENDANT: I understand.

17 THE COURT: I note that Mr. Yaeger has entered his  
18 appearance on our docket in this case and he is by your side  
19 representing you. If you wish to confer with him at any time  
20 you may do so.

21 Would you tell me your full legal name, please.

22 THE DEFENDANT: Again, please.

23 THE COURT: What is your full legal name?

24 THE DEFENDANT: Zwi Skorniki.

25 THE COURT: Mr. Skorniki, how old are you?

1 THE DEFENDANT: Sixty-nine.

2 THE COURT: What schooling or education have you  
3 had?

4 THE DEFENDANT: I'm a civil petroleum engineer.

5 THE COURT: Do you have what's equivalent to a  
6 bachelor's degree or a master's degree.

7 THE DEFENDANT: It is a bachelor.

8 THE COURT: Thank you.

9 And do you have any difficulty reading or writing  
10 English?

11 THE DEFENDANT: No.

12 THE COURT: And you can understand and speak  
13 English, correct?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. Yaeger, have you detected any  
16 difficulty on behalf of your client with the English language?

17 MR. YAEGER: I have not, Your Honor.

18 THE COURT: Thank you.

19 Mr. Skorniki, are you presently or have you recently  
20 been under the care of any physician or psychiatrist?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: In the past 24 hours, have you consumed  
23 any narcotic drugs, alcoholic beverages, or any medicine or  
24 pills?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Have you recently been hospitalized or  
2 treated for any mental or emotional condition or narcotic or  
3 drug --

4 THE DEFENDANT: No.

5 THE COURT: -- or alcohol addiction?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Do you feel that your mind is clear now?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand why you are here and  
10 what is going on in this proceed?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Mr. Yaeger, have you discussed the  
13 matter of pleading guilty with your client?

14 MR. YAEGER: I have, as has my colleague Mr. Padula.

15 THE COURT: All right, sir. And in your view,  
16 Mr. Yaeger, does your client understand the rights he would be  
17 waiving if he were to plead guilty?

18 MR. YAEGER: Yes, Your Honor.

19 THE COURT: Is he capable of understanding the  
20 nature of the proceedings we are holding right now?

21 MR. YAEGER: He is.

22 THE COURT: Do you have any doubt as to whether or  
23 not Mr. Skorniki is competent to plead?

24 MR. YAEGER: I do not.

25 THE COURT: Have you advised Mr. Skorniki of the



1 minimum and maximum sentence and fine that could be imposed as  
2 a result of this guilty plea?

3 MR. YAEGER: Yes.

4 THE COURT: Have you also discussed with him the  
5 advisory nature of the sentencing guidelines and the statutory  
6 sentencing factors that I would consider in determining his  
7 sentence?

8 MR. YAEGER: Yes. My colleague did so in more  
9 detail than I did, but yes.

10 THE COURT: Mr. Skorniki, do you understand the  
11 penalties and fines that you could face if you do proceed with  
12 your guilty plea?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Have you received a copy of the  
15 information pending against you, that is, the charges?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you had a chance to discuss those  
18 charges with either Mr. Yaeger or Mr. Padula or both?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you satisfied with your attorneys,  
21 sir?

22 THE DEFENDANT: Yes.

23 THE COURT: And did you have any difficulty  
24 understanding the charges?

25 THE DEFENDANT: No, Your Honor.

1           THE COURT: Would you like me to read the charges to  
2 you or do you feel that you understand?

3           THE DEFENDANT: I understand.

4           THE COURT: All right, sir.

5           Now, you do have a constitutional right to be  
6 charged by an indictment of a grand jury but you can waive  
7 that right to an indictment and agree to being charged by an  
8 information of the United States Attorney. Instead of an  
9 indictment, the felony charges against you have been brought  
10 by the United States Attorney by the filing of an information.  
11 Unless you waive your right to an indictment, you may not be  
12 charged with a felony under federal law unless a Grand Jury  
13 finds, by return of an indictment, that there is probable  
14 cause to believe that an offense under federal law has been  
15 committed and that you committed that offense.

16           Do you understand?

17           THE DEFENDANT: Yes.

18           THE COURT: If you do not waive indictment, the  
19 government may present the case to the Grand Jury and request  
20 that the Grand Jury indict you. A Grand Jury is an  
21 independent body of citizens of the Eastern District of New  
22 York. They are not employees of the Court or of the  
23 prosecutor's office. A Grand Jury is comprised of at least 16  
24 citizens and not more than 23 citizens. At least 12 Grand  
25 Jurors must find that there is probable cause to believe that

1 you committed the crime with which you are charged before you  
2 may be indicted.

3 Do you understand?

4 THE DEFENDANT: Yes, I understand.

5 THE COURT: A Grand Jury might or might not vote to  
6 indict you.

7 Do you understand?

8 THE DEFENDANT: Yes.

9 THE COURT: If you do waive indictment by the Grand  
10 Jury, the case will proceed against you on the United States  
11 Attorney's information just as though you had been indicted.

12 Do you understand?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Have you discussed the matter of waiving  
15 indictment with your attorney?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that you do have a  
18 right to be indicted by a Grand Jury?

19 THE DEFENDANT: Yes, I understand.

20 THE COURT: Do you wish to waive your right to an  
21 indictment?

22 THE DEFENDANT: Yes.

23 THE COURT: Did any anyone threaten you or promise  
24 anything to you to induce you to waive your right to an  
25 indictment?

1 THE DEFENDANT: No.

2 THE COURT: Now I have before me, sir, a document  
3 entitled Waiver of Indictment. Did you sign this document  
4 along with your attorney?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Did you do so today?

7 THE DEFENDANT: Yes.

8 THE COURT: And before you signed this, did you  
9 discuss any questions you might have about your right to be  
10 indicted versus proceeding against you by way of an  
11 information, did you discuss this with your lawyer?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you have any questions about this,  
14 sir?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: All right.

17 Well, I find, sir -- then let me just ask  
18 Mr. Yaeger, is there any reason why your client should not  
19 waive indictment?

20 MR. YAEGER: There is not, Your Honor.

21 THE COURT: I find that Mr. Skorniki's waiver of  
22 indictment and his signature on the waiver is knowing and  
23 voluntary and I accept his waiver of indictment.

24 Now, sir, the information, as you know, charges you  
25 with conspiracy to violate Foreign Corrupt Practices Act.

1 Do you understand?

2 THE DEFENDANT: Me?

3 THE COURT: Yes.

4 THE DEFENDANT: Yes, I understand.

5 THE COURT: Now I understand you wish to waive  
6 reading of the information; is that correct?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: I will review the elements of the  
9 offense charged in just a moment, but first let me remind you  
10 that you have the right to counsel. Mr. Yaeger is appearing  
11 here on your behalf and I want to make sure that you have  
12 discussed with your counsel, Mr. Yaeger and Mr. Padula, your  
13 right to have a trial, your right to be indicted and the  
14 possible offenses that you face if you do plead guilty to the  
15 information.

16 Have you done that, sir?

17 THE DEFENDANT: Yes.

18 THE COURT: Are you satisfied to have Mr. Padula and  
19 Mr. Yaeger represent you here today?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: You do have the right to persist in your  
22 plea of not guilty or to enter a plea of not guilty to the  
23 information.

24 Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: If you do plead not guilty to the  
2 information, under the United States Constitution and laws you  
3 would be been entitled to a speedy and public trial by a jury  
4 with the assistance of your attorney on the charges contained  
5 in the indictment 19-CR-277.

6 Do you understand?

7 THE DEFENDANT: Yes. Your Honor.

8 THE COURT: At the trial you would be presumed to be  
9 innocent and the government would have to overcome that  
10 presumption and prove you guilty by competent evidence and  
11 beyond a reasonable doubt as to each and every element of the  
12 offense charged in the information. You would not have to  
13 prove that you were innocent. If the government failed to  
14 prove you guilty beyond a reasonable doubt, the jury would  
15 have the duty to find you not guilty.

16 Do you understand?

17 THE DEFENDANT: Yes. Your Honor.

18 THE COURT: And that's why sometimes in a criminal  
19 case juries will return a verdict of not guilty even if the  
20 jurors may believe that it is probable that the defendant did  
21 commit the offense. When a jury returns a not guilty verdict,  
22 the jurors are not necessarily finding that the defendant is  
23 innocent, but rather the jury may not have been convinced  
24 beyond a reasonable doubt that the defendant is guilty.

25 Do you understand the difference?

1 THE DEFENDANT: Yes. Your Honor.

2 THE COURT: In the course of the trial the witnesses  
3 for the government would have to come to Court and testify in  
4 your presence and your attorney would have the right to object  
5 to all of the evidence offered against you by the government  
6 and to cross examine those witnesses. And although you would  
7 have no burden to do so, your attorney would have the right to  
8 present evidence and to compel witnesses to come to Court and  
9 testify in your defense.

10 Do you understand?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: At the trial, although you would have  
13 the right to testify if you chose to do so, you could not be  
14 required to testify. The United States Constitution protects  
15 your right not to incriminate yourself. So if you decided to  
16 go to trial and decided not to testify, I would instruct the  
17 jury that they could not hold that against you or even discuss  
18 that during their deliberations.

19 Do you understand?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: If you do plead guilty and I accept your  
22 guilty plea, you will be giving up your constitutional right  
23 to a jury trial and all the other rights I just described.  
24 There will be no further trial of any kind and no right to  
25 appeal from the judgment of guilty entered against you. You

1 will essentially be convicted based upon your plea of guilty  
2 during this proceeding that we are holding right now and the  
3 government will be free of any responsibility to prove  
4 anything about what you did in connection with the charges in  
5 the information.

6 Do you understand?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now, let me just advise you of what the  
9 government would have to prove in order to prevail at trial on  
10 the conspiracy to violate the Foreign Corrupt Practices Act.

11 First, that two or more persons entered an illegal  
12 or unlawful agreement charged in the information starting in  
13 about 2001.

14 Second, that you knowingly and willfully became a  
15 member of that conspiracy or unlawful agreement.

16 Third, that one of the members of the conspiracy  
17 knowingly committed at least one overt act charged in the  
18 information and that the overt -- and, fourth, that the overt  
19 act was committed to further some objective of the conspiracy.

20 Do you understand?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Now the information also charges that  
23 you are an employee or agent of the domestic concern here in  
24 the United States subsidiary of KOM, that you made use of the  
25 mails or any means or instrumentality of interstate commerce,



1 that in furtherance of an offer, payment, promise to pay or  
2 authorization of payment of anything of value to a foreign  
3 official or any person with knowledge knowing that all or a  
4 portion of such money or thing of value would be offered,  
5 given or promised directly or indirectly to any foreign  
6 official, corruptly and for the purpose of either influencing  
7 acts and decisions of such foreign official, foreign political  
8 party, an official thereof in his or her official capacity, or  
9 inducing such foreign official, foreign political party or  
10 official thereof to do and omit acts in violation of a lawful  
11 duty of such official and party, or a third, securing any  
12 improper advantage, or inducing such foreign official, foreign  
13 political party and official thereof to use his or her  
14 influence with a foreign government and agencies and  
15 instrumentalities in order to assist the domestic concern in  
16 obtaining and retaining business for or with or directing  
17 business to any person, and that you acted willfully.

18 And that's part of the Foreign Corrupt Practices Act  
19 anti-bribery provision.

20 Do you understand?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, if you do proceed to trial and were  
23 convicted by the verdict of the jury, you would have the right  
24 to ask the Court of Appeals to review the legality of all of  
25 the proceedings leading up to your conviction, but when you

1 enter a plea of guilty you are substituting your own words for  
2 the jury's verdict and when you do that you give up your right  
3 to bring an appeal or any other challenge to your conviction  
4 or the judgment of guilty entered against you.

5 Do you understand?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: If you do plead guilty, I will have to  
8 ask you questions about what you did regarding these charges  
9 in order to satisfy myself that you are, in fact, guilty of  
10 the charge to which you seek to plead guilty. You will have  
11 to answer my questions truthfully and completely and  
12 acknowledge your guilt and in that process you will be giving  
13 up your right not to incriminate yourself.

14 Do you understand?

15 THE DEFENDANT: Yes, I understand.

16 THE COURT: Are you willing to give up your right to  
17 a jury trial and all the other rights I've just discussed? Do  
18 you want to give up your right to a trial and the other rights  
19 we've just discussed?

20 THE DEFENDANT: Yes.

21 THE COURT: All right, sir. I've marked as Court  
22 Exhibit 1 a document that appears to be an agreement between  
23 you and the United States Government. If you could look at  
24 the last page of that document and tell me whether or not that  
25 is your signature above the line with your name.

1 THE DEFENDANT: Yes, it is mine.

2 THE COURT: Before you signed this document, did you  
3 have a chance to review it and discuss the terms with your  
4 attorney?

5 THE DEFENDANT: Many times, yes.

6 THE COURT: Do you understand what this document  
7 provides?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And by signing this document do you  
10 intend to indicate that you both understand the terms of this  
11 agreement and that you agree to those terms?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: I think what we should do is advise you  
14 that in your agreement you are agreeing with regard to  
15 paragraph 11, that if you do plead guilty there will be  
16 immigration consequences.

17 THE DEFENDANT: Yes.

18 THE COURT: And with regard to your immigration  
19 status, because you're not a United States citizen.

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: And that you can be removed and in all  
22 likelihood would be removed from the United States.

23 Do you understand?

24 THE DEFENDANT: I understand.

25 THE COURT: Did you discuss this provision with your

1 attorney?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Now I'm going to also review the other  
4 penalties that you face. Those are set forth on the  
5 government's plea penalty sheet, which we've marked as court  
6 Exhibit 1A. Court Exhibit 1 was your agreement, Court  
7 Exhibit 1A are the penalties that you face.

8 For conspiracy to violate the Foreign Corrupt  
9 Practices Act you face a maximum term of imprisonment of five  
10 years. There is no minimum term of imprisonment.

11 The maximum supervised release term is three years  
12 which follows any term of imprisonment. During the time of  
13 your supervised release you would be under the supervision of  
14 a probation officer who will have authority to supervise your  
15 activities and to require that you report to him or her about  
16 your activities. If you fail to comply with the terms of your  
17 supervised release, you could be returned to prison for up to  
18 two years without any credit for time that you've already  
19 served in prison and without any credit for time that you've  
20 already served on supervised release.

21 Do you understand?

22 THE DEFENDANT: Yes, I understand.

23 THE COURT: You also face a maximum fine of \$250,000  
24 and restitution, which means that you would have to compensate  
25 your victims. That amount will be an issue that you and the

1 government will be welcome to submit papers on regarding the  
2 restitution amount.

3 In addition, you must pay a 100-dollar mandatory  
4 special assessment which is required by law at the time you  
5 are sentenced. And you must also again recognize that you  
6 face removal from the United States.

7 Do you understand?

8 THE DEFENDANT: Yes, I understand, Your Honor.

9 THE COURT: Now, sir, under the Sentencing Reform  
10 Act of 1984, the United States Sentencing Commission issued  
11 guidelines for judges to consult in determining a sentence in  
12 a criminal case. The United States Supreme Court has decided  
13 that those guidelines are not mandatory but rather advisory.  
14 The guidelines provide a range of sentence within the  
15 statutory minimum of zero and a maximum of five years. I'm  
16 required to consult those guidelines as well as factors set  
17 forth in the criminal code at 18 U.S. Code Section 3553 in  
18 determining your sentence.

19 Now, as I said, the penalty sheet estimates that  
20 your guideline sentence will be 33 after you receive a  
21 three-point reduction for acceptance of responsibility. That  
22 means because you've decided to plead guilty before June 30th  
23 and spare the government the need to prepare for trial, the  
24 government will ask me and I will award a three-point  
25 reduction from your guidelines level.

1 Do you understand?

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: Now, the guideline estimate that's set  
4 forth in your penalty sheet does not refer to the Criminal  
5 History Category.

6 MS. SMITH: Your Honor, the government believes the  
7 Criminal History Category would be I; however, given the  
8 offense level regardless of the Criminal History Category and  
9 that the maximum is five years, the defendant's guidelines we  
10 predict would be 60 months.

11 THE COURT: All right. So the government is  
12 recognizing that the law provides for a maximum of a five year  
13 sentence. And you may have a criminal history point which  
14 means there may have been prior convictions that result in  
15 placing you in a Criminal History Category I. I won't know  
16 all of this until I see your presentence report.

17 Now, have you spoken to your attorney about the  
18 guidelines calculation in your agreement --

19 THE DEFENDANT: Yes.

20 THE COURT: -- or on the penalty sheet, I should  
21 say?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Mr. Yaeger, do you have any difference  
24 of opinion regarding the government's estimated guidelines  
25 exposure for Mr. Skorniki?

1 MR. YAEGER: No, Your Honor.

2 THE COURT: All right.

3 Sir, even though Mr. Yaeger agrees generally with  
4 the government's estimates of your guideline exposure, those  
5 estimates could be incorrect. I have an independent duty to  
6 calculate your guidelines and in any event I may impose a  
7 sentence that is more severe or less severe than that called  
8 for by the guidelines.

9 Do you understand?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: Have you discussed the advisory  
12 guidelines with your lawyers, sir?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Now, sir, you will not be sentenced  
15 until after the Probation Department prepares what's called a  
16 presentence report, which is a report about your role in the  
17 offense, your work history, your educational background, your  
18 family history, your criminal history, your financial  
19 condition and all factors that I may consider that may be  
20 relevant to sentencing. You will have an opportunity to read  
21 and correct or object to any facts reported in the presentence  
22 report and the government will have an opportunity to reply.

23 Do you understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Once I receive the presentence report

1 and all of the comments or objections or corrections, again I  
2 must independently consider all of that and make my own  
3 independent guidelines calculation and decide whether or not  
4 I'm going to impose a guidelines sentence or provide a  
5 sentence that is more or less severe than that called for by  
6 the guidelines. The limitation on me is that I may not exceed  
7 the statutory maximum of five years.

8 Do you understand?

9 THE DEFENDANT: Yes. Your Honor.

10 THE COURT: Now, sir, I want to point to another  
11 important provision of your agreement, which is paragraph 3.  
12 You are agreeing not to file an appeal or challenge your  
13 conviction if I impose a term of imprisonment of 60 months or  
14 less. Do you understand that you are waiving your right to  
15 challenge a sentence of 60 months or less?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Have you discussed this provision with  
18 your attorneys?

19 THE DEFENDANT: Yes, I discussed.

20 THE COURT: In addition, sir, parole has been  
21 abolished, and if you are sentenced to prison you will not be  
22 released on parole.

23 Do you understand?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: One other thing, Mr. Skorniki, is that



1 if you receive a sentence that is not what you would expect or  
2 hope for, that that will not be a basis for you to withdraw  
3 your guilty plea.

4 Do you understand?

5 THE DEFENDANT: Yes, I understand.

6 THE COURT: Are you ready to plead?

7 THE DEFENDANT: Yes, Your Honor.

8 MS. SMITH: Your Honor, before we do that I want to  
9 note one other provision of the agreement.

10 THE COURT: Of course.

11 MS. SMITH: Pursuant to paragraph 5c of the  
12 agreement, under Federal Rule of Criminal Procedure  
13 11(c)(1)(B), at sentencing the government has agreed to  
14 recommend to the Court, though it is not binding on the Court,  
15 that the defendant's completion of a prior criminal sentence  
16 in Brazil which resulted from a plea of guilty to an offense  
17 under Brazilian law that is relevant conduct to this plea,  
18 should be considered by this Court as a sentencing factor and  
19 the government has also agreed not to oppose the defendant's  
20 request for a sentence of probation.

21 THE COURT: The government is not going to oppose --

22 MS. SMITH: Not going to oppose.

23 THE COURT: -- a request for probation?

24 MS. SMITH: Yes.

25 THE COURT: All right, sir, well the government has

1     agreed to make certain recommendations, but they are not  
2     binding on me.

3             Do you understand?

4             THE DEFENDANT: It's clear.

5             THE COURT: I may decide that I don't want to accept  
6     the recommendation. I don't know enough about you at this  
7     time and I will certainly carefully review your request and  
8     all the papers that you submit in favor of a probation  
9     sentence, but I do want you to know that I'm not obligated to  
10    impose a sentence of probation.

11            Do you understand?

12            THE DEFENDANT: I understand clearly.

13            THE COURT: All right, sir. You said you were ready  
14    to plead at this time, correct?

15            THE DEFENDANT: Yes, Your Honor.

16            THE COURT: Mr. Yaeger, do you know of any reason  
17    why Mr. Skorniki should not plead guilty to the information?

18            MR. YAEGER: I do not.

19            THE COURT: Are you aware of any viable legal  
20    defenses that are causing you to counsel Mr. Skorniki not to  
21    plead guilty to the information?

22            MR. YAEGER: No.

23            THE COURT: Mr. Skorniki, what is your plea, guilty  
24    or not guilty?

25            THE DEFENDANT: Yes, guilty.

1 THE COURT: Guilty.

2 Do you plead guilty to the information, sir?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you making the plea of guilty  
5 voluntarily and of your own free will?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Did anyone make any threats or promises?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: Did anyone force you to plead guilty?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Other than the agreement that you made  
12 with the government, has anyone made any promise that has  
13 caused you to plead guilty today?

14 THE DEFENDANT: No.

15 THE COURT: All right, sir. Did anyone make any  
16 promise to you about what your sentence will be? Did anyone  
17 say, that -- did anyone promise you that you will receive a  
18 certain sentence?

19 THE DEFENDANT: No, no promise.

20 THE COURT: All right, sir. Then let me ask you to  
21 tell me in your own words what you did in connection with the  
22 acts charged in the information, specifically conspiracy to  
23 violate the Foreign Corrupt Practices Act.

24 THE DEFENDANT: May I read?

25 THE COURT: Yes, please. If you're going to read a

1 statement I want to make sure, did you prepare this statement?

2 THE DEFENDANT: Yes, together with my lawyers.

3 THE COURT: And do you accept the statement as your  
4 own statement?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. I would ask that you please  
7 read slowly and clearly.

8 THE DEFENDANT: May I sit?

9 THE COURT: Of course.

10 THE DEFENDANT: Between 2001 and 2014, I agree with  
11 others, including employees of Keppel Offshore and Marine,  
12 which is sometimes called KOM, and Technip an engineering and  
13 construction company that was headquartered in France, to pay  
14 bribes to help win business for those companies with  
15 Petrobras, an oil company majority owned and controlled by the  
16 Brazilian government.

17 THE COURT: All right. Would Mr. Yaeger mind  
18 sharing the statement with our court reporter so that we can  
19 understand what he said.

20 MR. YAEGER: Absolutely, Your Honor.

21 THE COURT: I understood that you said that you  
22 agreed with others, including KOM and Technip, which is  
23 headquartered in France, to pay bribes to win contracts with  
24 Petrobras, an oil company?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: That is partly owned or --

2 MR. YAEGER: Majority owned.

3 THE COURT: Majority owned by --

4 THE DEFENDANT: By the Brazilian government.

5 THE COURT: -- by the Brazilian government. And in  
6 exchange for those bribes, you expected and indeed contracts  
7 were awarded.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Correct?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right.

12 MR. YAEGER: I believe there was a little bit more  
13 to the statement.

14 THE DEFENDANT: May I continue?

15 THE COURT: I'm sorry.

16 THE DEFENDANT: It's okay.

17 THE COURT: I'm happy to hear more.

18 THE DEFENDANT: I acted on behalf of and as an agent  
19 for several KOM and Technip entities, including KOM USA and  
20 FSTP. I acted together with employees at these companies. In  
21 order to keep the bribes a secret, employees at the companies  
22 send money to my consulting companies I controlled. They did  
23 this under agreement that made it look like my companies were  
24 being paid only for help in negotiation with potential  
25 customers. In reality, part of the payments were to be used

1 to pay bribes.

2 May I continue?

3 THE COURT: Of course.

4 THE DEFENDANT: Or you want some clarification?

5 THE COURT: No. I think we will ask you to  
6 continue.

7 THE DEFENDANT: Okay. I knew that some of the money  
8 paid will go to persons affiliated with the Workers Party of  
9 Brazil, what we call PT.

10 THE COURT: The money -- part of the money you knew  
11 was going to the Workers Party in Brazil?

12 THE DEFENDANT: Yes. A political party that's  
13 controlled by the federal government in Brazil at the time. I  
14 also knew some of the money will go to two officials at  
15 Petrobras, an oil company majority-owned and controlled by the  
16 Brazilian government.

17 The payments from KOM and Technip to the consulting  
18 companies I controlled were made to bank accounts, some which  
19 were located the United States.

20 Also in November 25th, 2008, I send an email to  
21 executives at KOM to sought confirmation that I will be paid.  
22 The email reference that I will be paid additional commission  
23 for others including the party.

24 That's it, Your Honor.

25 THE COURT: All right. So you entered into this

1 unlawful agreement knowingly; is that correct?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And the agreement involved these  
4 payment -- the payments of frauds in order to secure --

5 THE DEFENDANT: Part for me and part to pay bribes  
6 for some other people.

7 THE COURT: All right. Now, sir, you noted that  
8 some of the money that was paid went through bank accounts in  
9 the United States.

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Are those venued in the Eastern District  
12 of New York?

13 MS. SMITH: Yes, Your Honor. Some of them were  
14 located in New York and the wires for those transfers  
15 transited through the Eastern District of New York,  
16 specifically the money that was paid to the consulting  
17 companies.

18 THE COURT: Do you agree with the government's  
19 statement about the wire transfers for payments paid to  
20 consulting companies went through what's called the Eastern  
21 District of New York, which includes Brooklyn, Queens, Long  
22 Island, and Staten Island. Maybe Mr. Yaeger and Mr. Skorniki  
23 can confirm whether or not they have knowledge that that is so  
24 or would otherwise agree with the government's proffer on that  
25 point.

1 MR. YAEGER: That is my understanding and we agree  
2 with the government's proffer on that point.

3 THE COURT: All right. Thank you.

4 Mr. Skorniki, you agree also?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Is there anything else that  
7 either the government or Mr. Yaeger would like to contribute  
8 or have Mr. Skorniki allocute to regarding his allocution?

9 MS. SMITH: No, Your Honor.

10 THE COURT: Mr. Yaeger?

11 MR. YAEGER: No, Your Honor.

12 THE COURT: Mr. Skorniki, based upon the information  
13 you provided, I find that you are acting voluntarily, that you  
14 fully understand your rights and the consequences of your plea  
15 and the waiver of indictment, and that there is a factual  
16 basis for your plea of guilty to the information. I accept  
17 your plea of guilty to the information.

18 I urge you to cooperate with the probation officer  
19 in the preparation of your presentence report and I would note  
20 that we've scheduled your sentencing date for September 23rd,  
21 2019 at 11 o'clock.

22 The parties, is that all right with you?

23 THE DEFENDANT: Twenty-third of September?

24 THE COURT: Yes, at 11 in the morning.

25 THE DEFENDANT: In the same place?



1 THE COURT: Right here. Yes.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Now, is he out on bail or has bail been  
4 set?

5 MS. SMITH: We have not yet set bail.

6 THE COURT: So we'll have to deal with that.

7 MS. SMITH: We have an agreed upon package.

8 THE COURT: Let me first, then, tell you that the  
9 lawyers are expected to comply with Federal Rules of Criminal  
10 Procedure 32 regarding any objections or corrections to the  
11 presentence report. Those need not be filed on ECF, but they  
12 should be served on opposing counsel and probation and a  
13 courtesy copy to the Court.

14 The defense objections are due within two weeks of  
15 receipt of the PSR and the government should respond one week  
16 thereafter. Any sentencing motions, submissions or letters of  
17 support from Mr. Skorniki should be submitted via ECF with  
18 redactions of personally identifying information or minor  
19 children or personal health information, but you should serve  
20 unredacted copies on probation and the Court.

21 The defense sentencing submissions are due  
22 September 5th. The government will respond by -- I'm sorry,  
23 September 12th and any reply by the defense is due  
24 September 19th.

25 Now, did you want to discuss bail?

1 MS. SMITH: Yes, Your Honor.

2 THE COURT: What is the proposal?

3 MS. SMITH: Your Honor, just to give you a little  
4 bit of background. The defendant is obviously a Brazilian  
5 citizen and given the nature of coming into plead guilty in  
6 connection with this crime, we have been working with the  
7 immigration authorities and he's been paroled into the  
8 country, but just for the plea and the sentencing. And so we  
9 have agreed that Mr. Skorniki will return to Brazil between  
10 the plea and the sentencing and we've agreed to a bail package  
11 of a hundred thousand dollars with Mr. Skorniki's signature.

12 THE COURT: So the only requirement is that he  
13 return --

14 MS. SMITH: Return for the sentencing.

15 THE COURT: -- for the sentencing?

16 MS. SMITH: Yes.

17 THE COURT: How do we intend to get the presentence  
18 report done, by telephone?

19 MS. SMITH: I think we can do it by telephone.  
20 We've also been able to set up Skype or Webex if necessary.  
21 We can set that up in our office for probation to interview  
22 him in person via Webex.

23 THE COURT: I trust the government or probation will  
24 obtain a sworn financial statement before the date of  
25 sentencing?

1 MS. SMITH: Yes, Your Honor.

2 THE COURT: You'll give us information and the  
3 defense information regarding any restitution sought.

4 MS. SMITH: Yes, Your Honor. It's our  
5 understanding, given the nature of the charges in here, there  
6 will not be restitution. Mr. Skorniki has already paid, I  
7 believe approximately \$25 million in fines in Brazil already,  
8 and so all of that information will be provided in connection  
9 with the presentence report as well as any financial  
10 statement.

11 THE COURT: All right. Mr. Yaeger, is the  
12 government's proposal acceptable to your client?

13 MR. YAEGER: It is, Your Honor.

14 THE COURT: And does he have bail money now?

15 MS. SMITH: We're going to -- it's just it's not  
16 actually posted just with his signature.

17 MR. YAEGER: A personal recognizance.

18 MS. SMITH: Personal recognizance.

19 THE COURT: What assurance do you have that if he  
20 doesn't comply you'll be able to secure a hundred thousand  
21 dollars from Mr. Skorniki?

22 MS. SMITH: So we have a full understanding of his  
23 access, we've also been working with Brazilian law enforcement  
24 who are aware of the plea and are working with us in  
25 conjunction, so that -- sort of that cooperation is the

1 assurance that we have. There have been all these assets  
2 seized in Brazil and additional to be seized.

3 THE COURT: All right. Well, I suppose he should  
4 sign a bond in any event.

5 MS. SMITH: Yes, Your Honor.

6 THE COURT: All right.

7 Are there any prohibitions about associating with  
8 anybody?

9 MS. SMITH: Just, Your Honor, the standard  
10 prohibition on associating with co-conspirators.

11 THE COURT: Is he aware of who they are?

12 MS. SMITH: Yes, Your Honor.

13 THE COURT: And no suretors?

14 MS. SMITH: That's correct.

15 THE COURT: Why don't you review the bond with  
16 Mr. Yaeger and if it's acceptable to both parties, he can sign  
17 it.

18 (Pause in proceedings.)

19 THE COURT: All right. It appears that Mr. Skorniki  
20 has signed the bond and I will execute it and he's released  
21 and I will see you in September, if not before. All right,  
22 sir?

23 THE DEFENDANT: The 23rd.

24 THE COURT: The 23rd, yes, sir.

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right. Is there anything else I  
2 need to deal with right now?

3 MS. SMITH: Your Honor.

4 THE COURT: All right. Nice to see you.

5 MR. YAEGER: Yes, Your Honor, we're fine.

6 THE COURT: Nice to see you, Mr. Yaeger.

7 MR. YAEGER: Yes, Your Honor, thank you.

8 THE COURT: I had to ask you.

9 MR. YAEGER: You are fully in the right. I couldn't  
10 possibly disagree.

11 THE COURT: Thank you.

12 (Matter concluded.)

13  
14 \* \* \* \* \*

15  
16 I certify that the foregoing is a correct transcript from the  
17 record of proceedings in the above-entitled matter.

18 s/ Georgette K. Betts

July 1, 2019

19 GEORGETTE K. BETTS

DATE